

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**TYLOR SHANE BLACK
ADC #145881**

PLAINTIFF

v. **CASE NO. 4:18-CV-00730 BSM**

**KYLE DODSON, Jailer, Van Buren
County Jail**

DEFENDANT

ORDER

After *de novo* review, United States Magistrate Judge Beth Deere's findings and recommendations [Doc. No. 43] are adopted in part and rejected in part.

The recommendation is adopted as to the claim against Kyle Dodson in his official capacity because Tylor Shane Black did not allege that his injury resulted from a Van Buren County policy or custom.

The recommendation is rejected as to the claim against Dodson in his individual capacity. In his objections, Black stated that Dodson saw that Black's foot was caught in the door and still continued to attempt to shut the door. Doc. No. 44. Further, in his response to Dodson's motion for summary judgment, Black stated in his affidavit that he "was in fact yelling telling him my foot was caught" and that "other inmates came to aid" Black when they saw Dodson "would not stop." Doc. No. 42 at 3. This testimony allows for the reasonable inference that Dodson acted with deliberate indifference—that is, he knew Black's foot was stuck in the door and continued to slam it anyway, breaking Black's toe.

Accordingly, Dodson's motion for summary judgment as to the claim against him in his individual capacity [Doc. No. 35] is denied. Black's motion for settlement [Doc. No. 40] is denied because the parties cannot be ordered to settle. Trial will be scheduled and a scheduling order will issue..

IT IS SO ORDERED this 9th day of August 2019.

Brian S. Miller
UNITED STATES DISTRICT JUDGE